

All corrections to notes on this calendar should be filed no later than 12 P.M. (Noon) on 10-11-06. Document filed after this time may not be reviewed prior to hearing and could result in a continuance of your case. The update to these notes will be posted in the late afternoon of the following day

The Probate Examiners can be reached at ProbateNotes@courts.sbcounty.gov. Emails must have the case identification information and hearing time/date in the subject line. No attachments will be opened. Probate examiners can only respond to inquiries regarding the meaning of comments in the notes. **Please do not send emails to state that documents have been filed, to request a confirmation of whether documents have been received, or to request the clearing of notes.** No legal or procedural advice may be given.

Rancho Cucamonga District
CIVCAL4 Rancho District

PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE JANET M FRANGIE

DATE: 10/17/06 TIME: 8:30 DEPT: R15P

CASE #: RC RS00580

CASE NAME: FAYETTE THACKER

HEARING:

Petition for Termination of power of atty ETAL 04/11/06

COUNSEL:

PAMELA REED	(PET)...PATRICK J SILVA
LINDA SMITH	(PET)...PATRICK J SILVA
FAYETTE THACKER	(CEE)...
SHEILA SWARTZ	(ARTHUR P. LINDARS)...ARTHUR P.

GENERAL INFORMATION: Continued from 4/11/06 pending resolution of criminal matter.
Continued from 7/18/06 at request of parties to clear notes

THIS CASE IS SET FOR HEARING ON petition to determine if the Conservatee had the capacity to consent to a power attorney, terminate power of attorney, removal of attorney in fact and award of attorney fees.

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. File notice of hearing and proof of service on the principal (Fayette Thacker)
2. Petitioner alleges that Fayette Thacker was not competent to consent to a power of attorney at the time it was drawn. Sheila Swartz was named the attorney in fact. This petition is brought pursuant to Pr. C. § 4540 et seq. Petitioners are daughters of the principal and thus have standing to bring the action pursuant to Pr. C. § 4540(d).
3. Petitioners can be entitled to attorney fees if the court determines that the attorney-in-fact has clearly violated their fiduciary duties under the power of attorney or has failed to properly account after proper demand.
4. The attorney in fact has responded to the petition and denies the allegations.

RECOMMENDATION: Once proper notice is filed matter is contested. Court needs to determine if additional discovery is necessary. Set matter for trial allowing sufficient time to complete discovery. It is necessary to set a trial date so that there will be a discovery cutoff date.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE JANET M FRANGIE

DATE: 10/17/06 TIME: 9:30 DEPT: R15P

CASE #: OG RS612

CASE NAME: IN THE MATTER OF DOUGLAS B CERINI

HEARING:
Accounting Review

COUNSEL:
JUDITH C VOILES (PET)...ALTHOUSE & MCDONOUGH
LOIS V CERINI (PET)...ALTHOUSE & MCDONOUGH
DEPARTMENT OF VETERANS AFFAIRS(PET)...OFFICE OF REGIONAL COUNSEL

GENERAL INFORMATION

Continued from 7/25/06 at request of petitioner

THIS CASE IS SET FOR HEARING ON accounting review

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED-

1. Accounting not filed.

RECOMMENDATION:

When an accounting is not filed as required, the court shall take action as specified in
Pr.C. § 2620.2

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE JANET M FRANGIE

DATE: 10/17/06 TIME: 9:30 DEPT: R15P

CASE #: RC RS00409

CASE NAME: JONATHAN MERVYN GARDNER

HEARING:
Accounting Review

COUNSEL:
IAN GARDNER (PET)...DONNASUE SMITH-ORTIZ
ERMA GARDNER (PET)...DONNASUE SMITH-ORTIZ
JONATHAN MERVYN GARDNER (PCE)...

GENERAL INFORMATION

THIS CASE IS SET FOR HEARING ON accounting review

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED-

1. Accounting not filed.

RECOMMENDATION:

When an accounting is not filed as required, the court shall take action as specified in Pr.C. § 2620.2.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE JANET M FRANGIE

DATE: 10/17/06 TIME: 9:30 DEPT: R15P

CASE #: RC RS00530

CASE NAME: LORRAYNE GARRITY

HEARING:
First and Final Account and Report.

COUNSEL:
RICHARD T WEAVER (PET)...HOWARD R HAWKINS
LORRAYNE GARRITY (PCE)...

GENERAL INFORMATION:
Accounting Period: 3-29-05 to 2-28-06

THIS CASE IS SET FOR HEARING ON First & Final Account

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Conservatee died on 2-28-06.
2. The Accounting states that I & A value was higher than the value reported in the actual I & A. Please file verified supplement or amended accounting.
3. Conservator requests fees of \$3500. Need to file verified supplement regarding services performed and time used, per Local Rule 1406(c) and California Rules of Court, Rule 7.202.
4. Attorney requests fees of \$3000, based upon 12 hours of work. Need to file verified supplement regarding services performed and time used, per Local Rule 1406(c) and California Rules of Court, Rule 7.202. Need to state hourly rate.
5. Accountings shows that money was received from Legg Mason accounts. No Legg Mason accounts were listed on the I & A. File supplement.
6. Distributions from the Smith Barney show "Normal Distribution." What does that mean? File supplement.
7. Distributions from the BofA account include check numbers without description. File supplement.
8. Distributions from the BofA account includes a \$57.95 bank fee. File supplement.

9. The bank account numbers now existing don't appear to be the same ones as listed on the I & A. Was there a transfer? File supplement.
10. Please file supplement regarding investment strategy; there was a long list of stocks sold at a loss for \$6000+
11. The accounting shows no expenses for the conservatee during her life. File verified supplement regarding how her needs were met.
12. Per PC 2620, need to file the original bank statements. While 1 original was filed, only a copy was filed as to Citigroup Smith Barney Financial Management Account.
13. Per PC 2620, on a first accounting, need to file the original bank statement of the accounts immediately preceding the date the conservator was appointed.

RECOMMENDATION:

Need verified supplement.

Once approved, set hearing for filing of receipts and final discharge for 10-16-07 in Redlands.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE JANET M FRANGIE

DATE: 10/17/06 TIME: 9:30 DEPT: R15P

CASE #: RC RS00570

CASE NAME: ELIZABETH OSTERWALD

HEARING:

Ex parte hearing re: PET FOR SUBSTITUTED JUDGMENT TO ESTABLISH
TRUST

COUNSEL:

LINDA MARTINEZ (PET)...JENNIFER L FIELD
COURT INVESTIGATORS OFFICE (AGN)...
ELIZABETH OSTERWALD (CEE)...MAUREEN MURATORE

GENERAL INFORMATION:

Continued from 7-25-06. Court and counsel conferred in chambers off the record.

THIS CASE IS SET FOR HEARING ON Petition for Substituted Judgment

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Petition seeks to create an irrevocable trust to transfer property. Beneficiaries of Trust will be the conservatee's two children. Petition alleges that this distribution is consistent with terms of Will. The copy of the Will filed with the Petition is not signed; there is just a typed signature. The Will leaves the property to both children as alleged.
2. Need to clarify how this plan will benefit the conservatee and her estate plan. Based upon the allegations of the petition, it appears to primarily benefit the children to avoid taxes and appropriate Medi-Cal liens. Please file verified supplement.
3. In order to approve the plan, the Court must determine that the proposed action will have no adverse effect on the estate, and that there will be sufficient assets left to take care of the conservatee. Petition alleges that estate will be adequate, but provides no details.
4. PC 2582 sets forth when the Court may make such an order. Does the conservatee have an objection to the plan? Is there a report from conservatee's attorney?

5. Local Rule 1405 requires certain items in any trust established under Substituted Judgment, including posting of bond and accountings. It does not appear that either item is present in the trust.
6. The proposed trust states that it is to be without court supervision (Paragraph 5.1). This provision conflicts with the Local Rule. Court may wish to review the portions of the Trust given control to the trustee, especially the provision regarding “self dealing” (Paragraph 5.4) and “Protective Provisions” (Paragraph 5.7) [“trustee never liable . . . “]

RECOMMENDATION:

File verified supplement.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE JANET M FRANGIE

DATE: 10/17/06 TIME: 9:30 DEPT: R15P

CASE #: RC RS00606

CASE NAME: MARGARET S JOHNSTON

HEARING:

Petition for Appointment of Conservator

COUNSEL:

PETER HURST (PET)...ELIZABETH MCDONOUGH

JUDY HURST (PET)...ELIZABETH MCDONOUGH

MARGARET S JOHNSTON (CEE)...MITCHELL I ROTH

GENERAL INFORMATION Temporary letters issued 8/24/06

THIS CASE IS SET FOR HEARING ON petition for Conservatorship, person and estate,
by step-niece and spouse

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED-

1. Petitioner request bond of \$100,000 base on same estate value. OK
2. Petitioner alleges conservatee is unwilling to attend and does not wish to contest. Court Investigator report indicates the contrary.
3. Need returned citation.
4. Court Investigator report states proposed conservatee objects to conservatorship. Court has already appointed counsel.
5. Medical powers requested. Court Investigator report conflicts with Capacity Declaration re consent to medical treatment. Court may wish a declaration from examining physician.
6. Section 4(c) re voter registration is incomplete. Court Investigator report notes conservatee is able to complete voter registration. If petition approved the order appointing conservatorship may need to be modified as it is marked the conservatee is not capable of completing said forms.
7. Need to file notice of hearing and proof of service on son.

RECOMMENDATION:

If petition granted court will have to set future dates. Set hearing for filing of inventory and appraisal for 4/24/07. Set hearing for accounting review for 12/18/07. Accounting to be filed 30 days in advance

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE JANET M FRANGIE

DATE: 10/17/06 TIME: 9:30 DEPT: R15P

CASE #: RG RS00942

CASE NAME: D'NYSE BROWN AND MARQUES BROWN

HEARING:

Hearing Re: FILING OF PROOF OF WITHDRAWAL OF FUNDS.

	COUNSEL:
DARRYL BROWN	(PET)...PRO/PER
D'NYSE BROWN	(MIN)...
MARQUES BROWN	(MIN)...

No file available for review.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE JANET M FRANGIE

DATE: 10/17/06 TIME: 9:30 DEPT: R15P

CASE #: RG RS01698

CASE NAME: JESSE MINOR AND RAECHEL MINOR

HEARING:
Accounting Review

COUNSEL:
RICHARD DENNIS BELL (PET)...DONNASUE SMITH-ORTIZ
LAURA L. WEST (PET)...DONNASUE SMITH-ORTIZ
JESSE MINOR (MIN)...
RAECHEL MINOR (MIN)...

GENERAL INFORMATION: Letters issued 3/9/06

THIS CASE IS SET FOR HEARING ON Accounting review

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED-

1. Accounting not filed. This accounting was set on 9/6/05, but letters were not issued till 3/9/06. Thus the first accounting would be due 5/15/07 with the accounting filed 30 days in advance.
2. Inventory and Appraisal is not filed (3 months past due).

RECOMMENDATION: Court may wish to continue this accounting review to 5/15/07.
Need I&A filed. When an inventory and appraisal is not filed as ordered, court may set a hearing in accord with Pr.C. § 2614.5

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE JANET M FRANGIE

DATE: 10/17/06 TIME: 9:30 DEPT: R15P

CASE #: RG RS01904

CASE NAME: SYNJIN OCHOA

HEARING:
Petition for Appointment of Guardian

	COUNSEL:
VIRGINIA MUNOZ	(PET)...PRO/PER
SYNJIN OCHOA	(MIN)...

GENERAL INFORMATION

THIS CASE IS SET FOR HEARING ON Petition for Guardianship, person only, by paternal grandmother, minor 13

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED-

1. Father and minor each signed a waiver and consent.
2. Need to file notice of hearing and proof of personal service on mother. If mother resides out of state, proof service by certified mail with return receipt is sufficient
3. Paternal grandparents and maternal grandfather are deceased. Does court wish to dispense with notice?

RECOMMENDATION:
None.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE JANET M FRANGIE

DATE: 10/17/06 TIME: 9:30 DEPT: R15P

CASE #: RG RS01906

CASE NAME: SMITH-QUINONEZ MINORS

HEARING:
Petition for Appointment of Guardian

COUNSEL:
ROSIE A CERDA (PET)...PRO/PER
SARAH ROSE SMITH-QUINONEZ (MIN)...
ARIEL ELIZABETH SMITH-QUINONEZ(MIN)...
ANNA RENEE SMITH-QUINONEZ (MIN)...

GENERAL INFORMATION

THIS CASE IS SET FOR HEARING ON Petition for Guardianship, person only, by paternal grandmother, minors 5, 3, and 2

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED-

1. Petitioner states minors were placed in her care by Idaho DCFS and requested that petitioner seek guardianship in CA
2. Father signed waiver and consent
3. Need proof of personal service on mother. As mother resides out of state, proof service by certified mail with return receipt is sufficient.
4. Need to file proof of mail service on maternal grandparents or due diligence declaration(s).

RECOMMENDATION:
None.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE JANET M FRANGIE

DATE: 10/17/06 TIME: 9:30 DEPT: R15P

CASE #: RG RS01908

CASE NAME: RIVERA MINORS

HEARING:
Petition for Appointment of Guardian

COUNSEL:
NOEMI RIVERA (PET)...PRO/PER
ROBERTO J RIVERA (MIN)...
ERNESTO V RIVERA (MIN)...

GENERAL INFORMATION: Temporary letters issued 8/18/06

THIS CASE IS SET FOR HEARING ON Petition for Guardianship, person only, by aunt, minors 7, 5, and 4

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED-

1. Need to file Duties of Guardian
2. Need to file notice of hearing and proof of personal service on mother and father each or due diligence declaration(s).
3. Need to file notice of hearing and proof of mail service on maternal grandparents each or due diligence declaration(s).

RECOMMENDATION:
None

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE MICHAEL R LIBUTTI

DATE: 10/17/06 TIME: 9:30 DEPT: R16P

CASE #: RC RS00135

CASE NAME: CONSERVATORSHIP OF GLADYS BROWN AKA GLAD

HEARING:
SEVENTH and Final Account and Report.

COUNSEL:
MARIA K HOFFMAN (PET)...M DANIEL SAYLOR

GENERAL INFORMATION Conservatee died on 12-19-05. Accounting covers 9-23-04 through 2-17-06.

Assets on hand are \$20,292.91.

THIS CASE IS SET FOR HEARING ON 7th and final accounting.

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Conservator requests fees of \$9,321.74, of which \$3,750 has already been paid pursuant to court order for monthly payments. A balance is owing of \$5,571.74. Amount is properly itemized.
2. Attorney requests fees of \$2532.50. Amount is properly itemized.
3. The petitioner had to file a petition requesting permission to cash in totten trust bank accounts for the benefit of the Conservatee. Not all such accounts were cashed. One remains. There were 18 living beneficiaries of the accounts. Petitioner proposes to divide the money equally between all of the beneficiaries. In the alternative the one beneficiary still on a totten trust account would receive \$5,500 and the remaining balance would be divided between 5 intestate heirs. Petitioner's prayer states that the assets should be divided as set forth in paragraph 12. There are 2 problems with this request. First, the paragraph offers 2 alternatives, which one did the petitioner intend to follow? Second, it would not appear to be within this court's jurisdiction to make such a ruling. This would appear to be within the province of the probate court. This court retains jurisdiction for the limited purpose of a final accounting. If no personal representative is named then the assets are to be turned over to the successor in interest. Petitioner has now filed a supplement indicating that the Totten trusts assets should go to Rebecca Kepley and the remainder should be distributed pursuant to the 4 intestate heirs. If this is petition's

wish then a 13100 affidavit should be prepared. **Affidavit of summary probate filed.**

4. Accounting looks ok.
5. There are no objections in the file at the time of this review.

RECOMMENDATION:

If petition granted court will have to set future dates. Set hearing for filing of receipts and discharge for 10-9-07.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE MICHAEL R LIBUTTI

DATE: 10/17/06 TIME: 9:30 DEPT: R16P

CASE #: RC RS00175

CASE NAME: IN THE MATTER OF EDMOND GEORGE TOLL

HEARING:
FOURTH. and Final Account and Report.

COUNSEL:
EDMOND GEORGE TOLL (PCE)...
LINDA HAITO (PET)...MARK HENRY SHAFRON

GENERAL INFORMATION Conservatee died on 11-10-04. Continued from 3-28-06.
Nothing new filed except a notice of hearing.
Continued from 6-13-06. Still nothing new filed except notice of hearing.

THIS CASE IS SET FOR HEARING ON 4th and final accounting.

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. The petitioner alleges that she is the sole heir under the Conservatee's Will. A copy of the Will is not attached. Based thereon the petitioner has filed a Pr. C. § 13100 declaration for transfer of assets to her. She has also waived accounting.
2. We have a bounced check from the Conservator in the amount of \$350. A penalty of \$27.50 has attached. The court has been holding this check since 1997.
3. The petitioner has provided a photocopy of her verification of this petition. Did the court want the original?
4. Without seeing the Will it cannot be determined if anyone else will be effected by this waiver of accounting.

RECOMMENDATION:

This accounting was filed more than a year and a half after death. The accounting has been pending since March 2006 with no attempt to clear the notes. Conservator claims to be the sole heir and will not account. Attorney has been asked for months to file description of work done, and still not filed.

When an accounting is not filed as required, the court shall take action as specified in Pr.C., § 2620.2.

Court should require an original verification. The court should require the petitioner to provide payment for the bounced check before approving this petition. Court may also wish to see a copy of the Will to ensure that the Conservator is in fact the sole heir of the Conservatee.

SEE NEXT MATTER ON CALENDAR

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE MICHAEL R LIBUTTI

DATE: 10/17/06 TIME: 9:30 DEPT: R16P

CASE #: RC RS00175

CASE NAME: IN THE MATTER OF EDMOND GEORGE TOLL

HEARING:
Petition for ATTY FEES FROM CONSERVATORSHIP

COUNSEL:
EDMOND GEORGE TOLL (PCE)...
LINDA HAITO (PET)...MARK HENRY SHAFRON

GENERAL INFORMATION continued from 3-28-06. Nothing new filed except a notice of hearing.

Continued from 6-13-06. Nothing new filed except notice of hearing.

THIS CASE IS SET FOR HEARING ON petition for attorney fees.

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. The petitioner is the attorney for the Conservator.
2. He requests fees in the amount of \$2,500. He alleges that the fees he actually earned are \$3,465 representing 12.6 hours at \$275 per hour. He says that he waives all but \$2,500.
3. Petitioner alleges that there is an itemization attached. The document attached is not a proper itemization. It contains dates and amounts alleged to have been earned on the particular day, but does not indicate what work was done on that date.

RECOMMENDATION:

See prior RECOMMENDATION regarding attorney's neglect of court's need for itemization.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE MICHAEL R LIBUTTI

DATE: 10/17/06 TIME: 9:30 DEPT: R16P

CASE #: RC RS00577

CASE NAME: ANTOINETTE BOONYANUWAT

HEARING:
Petition for Appointment of Conservator

COUNSEL:

MAGARET KLINE (PET)...PAUL E ANTILL
VIRINDER K SHARMA (PET)...MARK J TUNDIS
LOIS I LEFLAR (PCR)...PRO/PER
VIRINDER K SHARMA (PET)...MARK J TUNDIS
ANTOINETTE BOONYANUWAT (CEE)...
ANTOINETTE BOONYANUWAT ()...

GENERAL INFORMATION:
Continued from 5/30/06, 8/8/06, 8/10/06 & 8/11/06

Competing petitions filed. On 8/11/06, court appointed temporary prof'l conservator, Lois Leflar and ordered any monies in petitioners' possession be given to Leflar.

Per Minute Order of 8/11/06, on the petition for conservatorship filed by Margaret Kline, Lois Leflar is added as professional conservator.

THIS CASE IS SET FOR HEARING ON Competing Petitions for conservatorship of the person and estate. #1 filed by Margaret Kline, sister. #2 filed by Verinda Sharma, brother-in-law.

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

As to Lois Leflar:

1. PC 2250(b) appears to give court power to appoint an individual as temporary conservator upon "other showing" to serve pending the final determination of the

court upon the petition for the appointment of the conservator. However, court may not appoint Lois Leflar as permanent conservator without petition filed by Lois Leflar.

2. Court ordered temporary conservator to serve without bond. Estimated value of estate from Petition #1 (Kline) is \$1400. Estimated value of estate from Petition #2 (Sharma) is \$148,000. Recommend bond of \$148,000. Court may wish to revisit the order.

As to #1 (Kline)

1. There is no Court Investigator report on the basis that the Conservatee nominated the Conservator and will attend the hearing. Do not see a nomination signed by Conservatee in the filed. Assuming the allegation in the petition is true the Conservatee must still be advised of her rights. Court must give Conservatee her rights, see Pr.C. § 1828 for list of rights that must be explained.
2. Petitioner has requested that bond be waived based on a waiver from the Conservatee. There is no waiver from the Conservatee in the file. The statement in the petition is somewhat confusing as to assets of the Conservatee. Is the real property listed the residence of the Conservatee? Is the \$1,400 personal property assets income? Is the income monthly or annually? Does the petitioner have any other income? Court will determine bond based on all personal and real property assets and income for 1 year. If the real property is the residence of the Conservatee then it is excluded from the calculation. So assuming the real property is excluded and the total income for a year is \$1,400 then bond not required pursuant to Pr.C. §§ 2323 and 2628. If the \$1,400 is monthly then it must be multiplied by 12 to find the bond amount. Judge to decide.
3. It appears that the petitioner was originally asking for medical powers, has now whited that request out. Court should note that Petition #2 does not request medical powers, yet on Page 5 of that Petition (Section 9), it is indicated that capacity declaration will be filed.

As to #2(Sharma):

1. Bond issue. Sharma alleges bondable value of estate is \$148,000. Sharma alleges that no bond should be required under PC 2321. PC 2321 allows a waiver of the bond by the conservatee. However, no such waiver in the file.
2. Petitioner alleges that proposed conservatee is in a "locked facility". Court should inquire about placement and whether the placement violates the proposed conservatee's civil rights.
3. Petitioner alleges that proposed conservatee previously executed Power of Attorney (7/20/06). Court should note that Kathy Dorough has durable power of attorney and nomination as potential conservator. If Kathy Dorough petitioned for conservatorship, then court would consider that a nomination for her and should appoint her unless it was not in the best interests of the proposed conservatee. (See PC 4126, 1810) This "nomination" of Kathy cannot be transferred to Sharma.
4. Need to file return of citation.
5. Petition indicates that proposed conservatee not able to complete voter registration. Court will need confirmation from CI prior to restraining the right to vote.

6. If seeking medical powers (not clear from Petition), will need to file Capacity Declaration.
7. Need to file Notice of Hearing and Proof of Service.

General Issues:

1. Need CI report.

RECOMMENDATION:

Need CI report and to clear notes. Will need report from temporary conservator.

If petition granted court will have to set future dates. Court will need to determine issue of bond and whether conservatorship of the estate is necessary at all. If court determines that conservatorship of the estate is required then court will have to set review date. Set hearing for filing of inventory and appraisal for 4-24-06. Set hearing for accounting review for 12-18-07. Accounting to be filed 30 days in advance.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE MICHAEL R LIBUTTI

DATE: 10/17/06 TIME: 9:30 DEPT: R16P

CASE #: RC RS00577

CASE NAME: ANTOINETTE BOONYANUWAT

HEARING:
Petition for Appointment of Conservator

COUNSEL:
MAGARET KLINE (PET)...PAUL E ANTILL
VIRINDER K SHARMA (PET)...MARK J TUNDIS
LOIS I LEFLAR (PCR)...PRO/PER
VIRINDER K SHARMA (PET)...MARK J TUNDIS
ANTOINETTE BOONYANUWAT (CEE)...
ANTOINETTE BOONYANUWAT ()...

See prior matter on this calendar

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE MICHAEL R LIBUTTI

DATE: 10/17/06 TIME: 9:30 DEPT: R16P

CASE #: RC RS00605

CASE NAME: JOSEPH P O'BRIEN

HEARING:

Petition for Appointment of Conservator

COUNSEL:

LINDA MAXWELL (PET)...ELISABETH KEMPE-OLINGER
JOSEPH P O'BRIEN (PCE)...

GENERAL INFORMATION:

Temporary letters as to estate issued 7/31/06

Temporary letters as to person issued 9/8/06

THIS CASE IS SET FOR HEARING ON Petition for Conservatorship, by professional conservator, person and estate (separate petitions)

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED-

1. Medical and dementia powers sought. Court must appoint counsel.
2. Capacity declaration filed. Court may wish to note examining doctor (Dr. Suiter) is not proposed conservatee's regular physician.
3. Need Court Investigator report
4. Citation returned. Court may wish to inquire whether both (person and estate) petitions were served, because the Proof of Service is vague.
5. Petition for person:
 - a. The identification of "relatives" does not appear to comply with Pr.C. §.1821(b)(1-4). File verified supplement.
 - b. If "relatives" are identified (see note 5(a)) notice will be needed.
6. Petition for estate.
 - a. Petition requests bond of \$250,000. OK.
 - b. Petitioner alleges friend Maria Rojo will file a petition for person. However, the professional conservator has filed this petition. Will Maria Rojo file for conservatorship?
 - c. Same relative issue as note 5(a-b).

RECOMMENDATION:

Clear notes. Court to appoint counsel. If approved court to set future dates. Set inventory and appraisal review for 4/24/07. Accounting review for 12/18/07. Accounting to be filed 30 days in advance.

Superior Court of Calif, County of San Bernardino

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Rancho Cucamonga District

CIVCAL4

Rancho District

PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE MICHAEL R LIBUTTI

DATE: 10/17/06

TIME: 9:30

DEPT: R16P

CASE #: RC RS00605

CASE NAME: JOSEPH P O'BRIEN

HEARING:

Petition for Appointment of Conservator

COUNSEL:

LINDA MAXWELL

JOSEPH P O'BRIEN

(PET)...ELISABETH KEMPE-OLINGER

(PCE)...

See prior notes page 6

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE MICHAEL R LIBUTTI

DATE: 10/17/06 TIME: 9:30 DEPT: R16P

CASE #: RC RS00607

CASE NAME: BETTY MAY SLOAN

HEARING:
Petition for Appointment of Conservator

COUNSEL:
LORRAINE MORRIS. (PET)...BROCK LAW OFFICE
BETTY MAE SLOAN (CEE)...MAUREEN MURATORE

GENERAL INFORMATION: Temporary letters issued 8/10/06

THIS CASE IS SET FOR HEARING ON Petition for Conservatorship, person and estate,
by daughter

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED-

1. Petitioner request bond of \$20,000. Estimated value of estate is \$20,200. JTD
2. Section 5 of confidential conservator screening form incomplete. File verified supplement.
3. Medical and dementia powers sought.
4. Proposed conservatee will not attend hearing.
5. The following issues relate to the filed Capacity declaration:
 - a. The date as to doctor's last visit with proposed conservatee is incomplete. This information is necessary to determine current status.
 - b. States proposed conservatee lacks capacity as to consent to medical treatment. However the court cannot rely on that opinion due to doctor's failure to initial. File amended capacity declaration.
 - c. Faxed copy in file. Please submit original.
6. Court has already appointed mandatory counsel.
7. Proposed conservatee currently situated in Orange County. Per Pr.C. §.2201 venue proper in county where proposed conservatee resides or such other county as may be in the best interest of the proposed conservatee. Petition

- states proposed conservator resides and is employed in this county and she will be the person who will provide all assistance. JTD
8. Petition states conservatee is unable to complete voter registration. See Court Investigator report.
 9. Section 11 of petition as to relatives appears in conflict with other documents in file. Is Randall Grenkie the brother or son of the conservatee? File verified supplement.
 10. Need notice of hearing and proof of service
 11. Need returned Citation

RECOMMENDATION:

Need report from appointed counsel. Clear notes. If approved court to set future dates. Set inventory and appraisal review for 4/24/07. Accounting review for 12/18/07. Accounting to be filed 30 days in advance.

Superior Court of Calif, County of San Bernardino
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Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE MICHAEL R LIBUTTI

DATE: 10/17/06 TIME: 9:30 DEPT: R16P

CASE #: RC RS00607

CASE NAME: BETTY MAY SLOAN

HEARING:
Petition for Authority to Consent to Medical Treatment.

COUNSEL:
LORRAINE MORRIS. (PET)...BROCK LAW OFFICE
BETTY MAE SLOAN (CEE)...MAUREEN MURATORE

See prior notes page 8

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE MICHAEL R LIBUTTI

DATE: 10/17/06 TIME: 9:30 DEPT: R16P

CASE #: RG RS00681

CASE NAME: IN THE GUARDIANSHIP OF GINA MARIE SCHOTT

HEARING:

Petition for FOR PROOF OF ESTABLISHMENT OF GUARDIANSHIP IN
ARIZONA/TERMINATE HERE WHEN ESTABLISHED

COUNSEL:

ROSE MARIE GRACE	(PET)...PRO/PER
DENNIS GRACE	(PET)...PRO/PER
GINA MARIA SCHOTT	(DEC)...

GENERAL INFORMATION:

THIS CASE IS SET FOR HEARING ON proof of guardianship in AZ & subsequent
termination

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED-

1. Change of address for minor submitted by mail showing she is attending a boarding school in Arizona. Hearing set on court's own motion. No proof of Guardianship in AZ filed.
2. As minor is out of state, Court may wish to refer matter to Court Investigator for investigation and recommendation. Alternatively, court may wish to terminate guardianship as minor is no longer under our jurisdiction

RECOMMENDATION:

Court's discretion.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE MICHAEL R LIBUTTI

DATE: 10/17/06 TIME: 9:30 DEPT: R16P

CASE #: RG RS01333

CASE NAME: DEVIN ROY MITCHELL

HEARING:
Petition for Termination of Guardianship

COUNSEL:

LAURETTA MITCHELL	(PET)...PRO/PER
DEVIN ROY MITCHELL	(MIN)...
MICHELLE MITCHELL	(PET)...PRO/PER
COURT INVESTIGATOR	(AGN)...PRO/PER
LISA M MITCHELL	(OBJ)...PRO/PER

GENERAL INFORMATION: Letters issued 12/11/03

Continued from 8/8/06. Matter referred to CI for investigation and report

THIS CASE IS SET FOR HEARING ON Petition to terminate guardianship

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. The petition is filed by Michelle Mitchell, guardian. The reason for termination is to reunite family. A similar petition was filed by co-guardian in 2-06 and denied by the court based on the Court Investigator report.
2. Due diligence declaration filed as to father indicating efforts to locate were unsuccessful. JTD
3. File notice of hearing and proof of service Paternal grandparents or due diligence declaration(s)
4. Need Court Investigator report

RECOMMENDATION:
Need Court Investigator report

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE MICHAEL R LIBUTTI

DATE: 10/17/06 TIME: 9:30 DEPT: R16P

CASE #: RG RS01597

CASE NAME: ARLENE M CONTRERAS

HEARING:
Petition for Appointment of Guardian

COUNSEL:
KARLA V TOVAR (PET)...PRO/PER
ARLENE M CONTRERAS (MIN)...
COURT INVESTIGATOR (AGN)...PRO/PER
EDMUND DYER (SG)...ALL AMERICAN LAW
VERONICA DYER (SG)...ALL AMERICAN LAW

No file available for review.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE MICHAEL R LIBUTTI

DATE: 10/17/06 TIME: 9:30 DEPT: R16P

CASE #: RG RS01809

CASE NAME: DEREK K CHIATOVICH

HEARING:

Petition for Appointment of Guardian

COUNSEL:

NANCY S CHIATOVICH (PET)...VINCENT B GARCIA

DEREK K CHIATOVICH (MIN)...

COURT INVESTIGATOR (AGN)...PRO/PER

GENERAL INFORMATION temporary letters issued 2-21-06. Continued from 4-25-06.
Continued from 7/11/06 at request of maternal grandmother and mother. Court orders maternal grandmother and mother to each file objections. Mother granted telephonic contact with minor.

THIS CASE IS SET FOR HEARING ON Petition for guardianship, person only, by paternal grandmother, minor 3.

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. There is only mailed service to the parents. Mother lives out of state so mailed notice certified mail, return receipt is ok, but nothing in file to indicate that is how she was served. Father has not been personally served. Serve or file due diligence declarations. Parents appeared at the time of the last hearing. Did court wish to waive further notice to them? Judge to decide.
2. Court referred matter to Court Investigator for report and recommendation. Report is in the file.
3. Objection filed by maternal grandmother stating that the mother and minor will live in her home and that MGM will help care for minor.
4. Objection filed by mother stating she is capable of caring for the minor
5. Service of objections appears to be made to petitioner and attorney at the court's address. Question, was service completed?

RECOMMENDATION: None.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE MICHAEL R LIBUTTI

DATE: 10/17/06 TIME: 9:30 DEPT: R16P

CASE #: RG RS01835

CASE NAME: REBECCA BUELNA AND JUSTINE BUELNA

HEARING:
Petition for Appointment of Guardian

COUNSEL:
LORRAINE ARMENTA BUELNA (PET)...PRO/PER
REBECCA BUELNA (MIN)...
JUSTINE BUELNA (MIN)...
COURT INVESTIGATOR (AGN)...

GENERAL INFORMATION Temporary letters issued 5-12-06. Continued from 5-30-06 to allow mother to speak with Court Investigator.

Continued from 8/8/06 Court read & considered CI report. Court orders mother to file written objections within 10 days. Mother to have visitation as reasonable as agreed by petitioner. Matter referred to Court Investigator for investigation and report and to interview mother and step-father. Nothing new filed.

THIS CASE IS SET FOR HEARING ON Petition for guardianship, person only, by stepmother, minors 16 and 14

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Court has referred the matter to the Court Investigator for a report and recommendation. We are awaiting report.
2. File notice of hearing and proof of mailed service on maternal grandmother and Court Investigator.
3. File notice of hearing and proof of personal service on mother.

RECOMMENDATION:
None

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE MICHAEL R LIBUTTI

DATE: 10/17/06 TIME: 9:30 DEPT: R16P

CASE #: RG RS01843
CASE NAME: CHRISINA M GENG
HEARING:
Petition for Appointment of Guardian
COUNSEL:
BRIAN K DESCHAIINE (PET)...ALTHOUSE & MCDONOUGH
LILLIAN M GENG (PET)...ALTHOUSE & MCDONOUGH
CHRISTINA M GENG (MIN)...
COURT INVESTIGATORS OFFICE (AGN)...

GENERAL INFORMATION: Temporary letters issued April 27, 2006.

Continued from 6/20/06 wherein Court deems mother's letter written to court as formal objection. Matter referred to Court Investigator for investigation and report. Nothing new filed.

THIS MATTER IS SET FOR HEARING ON: Petition for Guardianship, person only, by maternal grandparents, minor 1.

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Biological parents are both incarcerated. They have apparently signed consent to temporary guardianship of the minor. It does not appear that they agreed to permanent guardianship, however.
2. Paternal grandparents have apparently consented to guardianship.
3. Court may wish to review guardianship questionnaire and confidential screening forms and CII results as they appear to conflict.
4. Court has previously consented to mailed service on incarcerated parents.
5. Court has received a letter from mother who is in custody in Arizona. Mother objects to permanent guardianship, but consents to temporary. Court does have the power to appoint counsel to represent the interests of an incarcerated person who is in danger of losing parental rights. Court should supply a copy of the letter to petitioners.

RECOMMENDATION: Need Court Investigator report

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE MICHAEL R LIBUTTI

DATE: 10/17/06 TIME: 9:30 DEPT: R16P

CASE #: RG RS01867

CASE NAME: JAYMEE LEE RAPP

HEARING:
Petition for Appointment of Guardian

COUNSEL:
REBECCA BOJORQUEZ (PET)...PRO/PER
JAYMEE LEE RAPP (MIN)...

GENERAL INFORMATION temporary letters issued 6-14-06.

Continued from 8/15/06 for notice. Nothing new filed.

THIS CASE IS SET FOR HEARING ON Petition for guardianship, person only, by
maternal aunt, minor 13.

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. File notice of hearing and proof of mailed service on maternal grandmother and Court Investigator.
2. File notice of hearing and proof of personal service on minor.
3. Court may wish to review confidential screening form.

RECOMMENDATION:
None.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE MICHAEL R LIBUTTI

DATE: 10/17/06 TIME: 9:30 DEPT: R16P

CASE #: RG RS01905

CASE NAME: KAYLA J KELLEY

HEARING:
Petition for Appointment of Guardian

COUNSEL:	
LINDA A CROWSER	(PET)...PRO/PER
KAYLA J KELLEY	(MIN)...
GREG CANNON	(PG)...
FRANCIS CANNON	(PG)...
CINDY GRAY	(PG)...

GENERAL INFORMATION:

THIS CASE IS SET FOR HEARING ON Petition for Guardianship, person only, by caregiver, minor 15

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED-

1. Mother deceased (11/10/03)
2. Father signed a nomination, waiver and consent.
3. Minor personally served 8/12/06.
4. Need to file proof of mail service on paternal grandfather or due diligence declaration.
5. Need signature of proposed guardian Greg Cannon on pages 1 & 9 of the guardianship questionnaire. File verified supplement.
6. Need signature of proposed guardian Francis Cannon on page 9 of the guardianship questionnaire. File verified supplement.
7. Need DCS report as petitioner is a non-relative.

RECOMMENDATION:
Need DCS report

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE MICHAEL R LIBUTTI

DATE: 10/17/06 TIME: 9:30 DEPT: R16P

CASE #: RG RS01907

CASE NAME: DANIKA RUTHANNE DOERING

HEARING:
Petition for Appointment of Guardian

COUNSEL:
DONALD M DENNY (PET)...PRO/PER
DANIKA RUTHANNE DOERING (MIN)...

GENERAL INFORMATION: Temporary letters issued 8/14/06

THIS CASE IS SET FOR HEARING ON Petition for Guardianship, person only, by
maternal uncle, minor 16

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED-

1. Petitioner alleges CPS placed minor with petitioner.
2. Minor signed a waiver and consent.
3. Mother personally served 8/22/06
4. Proof of service via certified mail filed as to father addressed to Idaho location.
Service is incomplete. Need to file certified returned receipt.
5. Maternal grandparents are deceased. Does court wish to dispense with notice?

RECOMMENDATION:
None

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE MICHAEL R LIBUTTI

DATE: 10/17/06 TIME: 9:30 DEPT: R16P

CASE #: RG RS01909

CASE NAME: JAMES CLIFFORD NICHOLS.

HEARING:
Petition for Appointment of Guardian

COUNSEL:
VICKIE L CARPENTER (PET)...PRO/PER
JAMES CLIFFORD NICHOLS (MIN)...

GENERAL INFORMATION
Order dispensing notice denied.

THIS CASE IS SET FOR HEARING ON Petition for Guardianship, person only, by
paternal grandmother, minor 2

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED-

1. Petitioner states mother relinquished parental rights
2. Need to file notice of hearing and proof of personal service on mother and father each or due diligence declaration(s).
3. Need to file notice of hearing and proof of mail service on paternal grandparents and maternal grandfather each or due diligence declaration(s).
4. Court may wish to review confidential screening form (tabbed)

RECOMMENDATION:
None.

CIVCAL4 Rancho Cucamonga District
 Rancho District

PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS02071

CASE NAME: MARGARITA FINCH

HEARING:
THIRD and Final Account and Report.

COUNSEL:
WILLIAM FINCH (PET)...STAPLETON & STAPLETON
BETTY JENELLE CURRIER (PET)...STAPLETON & STAPLETON
MARGARITA FINCH (DEC)...

No file available for review.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS02402

CASE NAME: LARRY SCHAFER

HEARING:

Waiver of account and for final distribution.

COUNSEL:

GARY SCHAFER	(PET)...WILSON & WILSON
LARRY SCHAFER	(DEC)...

GENERAL INFORMATION:

THIS CASE IS SET FOR HEARING ON Waiver of Account

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Both beneficiaries waive accounting.
2. Attorney waives extraordinary fees and balance of his fees over \$6373.50. (Balance is more like \$16,000) Court previously approved preliminary attorney fee of \$14,999. Does request reimbursement of costs. OK.
3. Petitioner waives statutory commission.

RECOMMENDATION:

RFA. Set hearing for Redlands Court for filing of receipts and final discharge for 10-16-07.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS02485

CASE NAME: MARTHA F BRIGGER

HEARING:
Hearing re Final Discharge

COUNSEL:
FONROSE W BRIGGER (PET)...ALLAR, SHELTON & O'CONNOR
MARTHA F BRIGGER (DEC)...
NATHAN D BRIGGER (PET)...SIDNEY W JONES

GENERAL INFORMATION:
Continued from 71-8-06. Executor is now deceased. Distribution has been completed.
Attorney sought additional time to obtain receipts.

THIS CASE IS SET FOR HEARING ON Final Discharge

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Waiting for receipts.

RECOMMENDATION:
Find out status.

Superior Court of Calif, County of San Bernardino

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Rancho Cucamonga District

CIVCAL4

Rancho District

PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR
HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS02491

CASE NAME: CRISTINA SCOPAZZO

HEARING:

FIRST ACCT CURRENT & REPORT

COUNSEL:

LORENZO SCOPAZZO (PET)...PETER J LINDEN

CRISTINA SCOPAZZO (DEC)...

GENERAL INFORMATION: Letters of Administration issued September 28, 2004.

Continued from 3-14-06. Nothing new filed.

Continued from 8-8-06. Counsel Firetag to give notice. Objections to be filed by 10-3-06.

THIS MATTER IS SET FOR HEARING ON: First Account and Report.

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. The estate consists solely of real property. Petitioner seeks permission to sell property and to retain the sum of \$10,000 for closing expenses etc. Petitioner also requests distribution of the estate. **A supplement has been filed showing that the estate is not now in a condition to close in that the nature of the property has not yet been determined. Petitioner indicates that a spousal property petition will be filed within 90 days and in that petition the petitioner will be asking the court to determine the community or separate property nature of the real property. It would therefore appear premature for the court to authorize selling of the property, determining what amounts are to be retained for closing expenses or authorize distribution. Such requests should be denied at this time.**
2. Accounting looks ok.
3. The character of the property needs to be determined prior to selling the property.
4. Need to file notice of continued hearing (Attorney Firetag).
5. No objections filed yet.

RECOMMENDATION: Approve a status report and accounting for this accounting period in the absence of any objection. Deny any request for distribution at this time, without prejudice. Set hearing for the next status report and/or account for 10-9-07. Any accounting to be filed 30 days in advance. Estate to remain open until that time.

Rancho Cucamonga District

CIVCAL4

Rancho District

PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR
HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS02500

CASE NAME: RICHARD LEE CHILSON

HEARING:

Petition for to sign order or provide instruction

COUNSEL:

DONALD W CHILSON (PET)...JAMES BANKS

RICHARD LEE CHILSON (DEC)...

LINDA BROWN (RES)...ZEUTZIUS & LABRAN

PATRICK L CHILSON ()...

GENERAL INFORMATION:

THIS CASE IS SET FOR HEARING ON Petition to Sign Order or Provide Instruction

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. The Court approved a settlement between the estate and Linda Brown per Petition for Instruction. The proposed order was circulated and one of the parties (Patrick Chilson) filed an Objection to Settlement stating he was unaware.
2. On May 30, 2006, the Court heard the Objection. The minute order states "Patrick L. Chilson's Motion to for reconsideration is heard. Court finds: Patrick L. Chilson's Motion for reconsideration is denied."
3. The Estate then submitted a proposed order following the hearing. This proposed order was rejected by the Probate Attorney because it contains findings not appearing on the minute order. The Estate was asked to correct the order or provide a copy of the transcript.
4. The Estate now files this Petition with the goal of getting the Order signed or instructions as to the problem.

RECOMMENDATION:

If the Court remembers making the specific orders/findings contained in the Order Denying Objections to Settlement Filed by Patrick Chilson, the Court should execute the order. However, if the Court does not remember the specific orders/finding, then a copy of the transcript of that hearing should be obtained for review. Alternatively, the Court could instruct the Estate that an Order which simply indicates that the Objections was denied (as stated in the minute order) should be prepared.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS02640

CASE NAME: RUTH ARLENE WINGER

HEARING:
OSC re: removal

COUNSEL:
MATHEW C WINGER (PET)...PRO/PER
RUTH ARELENE WINGER (DEC)..

GENERAL INFORMATION:

Hearing set on 7-18-06 when Court suspended powers of Matthew Winger. Citation issued re: removal. Matthew Winger was served by registered mail to his address in Australia. His attorney was relieved on 7-18-06.

THIS CASE IS SET FOR HEARING ON OSC re: Removal

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Status report filed by prior attorney indicating no action and p.r. had moved to Australia.
2. There is a long list of people who are interested under the Will, and the Court should send out notice of the removal to those persons. Once Matthew Winger is removed, then the Estate is dormant until someone else comes in to seek powers and administrate the estate.

RECOMMENDATION:

Remove. Court to send notice of removal and need for person to file petition to become administrator with will annexed or no assets can be distributed. Estate consists of real property located at 7558 Camino Norte, Rancho Cucamonga, which the County Assessor records show still be in the name of Ruth A. Winger. The property taxes have not been paid for some time, and so it is possible that the County will foreclose upon the property at some time in the future.

Court cannot proceed with estate once there is a removal until someone else petitions.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS02640

CASE NAME: RUTH ARLENE WINGER

HEARING:
Hearing re: Inventory and appraisal

COUNSEL:
MATHEW C WINGER (PET)...PRO/PER
RUTH ARELENE WINGER (DEC)...

See prior note

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS02672

CASE NAME: MARGARET T WARD

HEARING:
Accounting Review

COUNSEL:
JUDY EASTIS (PET)...DEANE SELLON
MARGARET T WARD (DEC)...

GENERAL INFORMATION:

THIS CASE IS SET FOR HEARING ON Accounting Review

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Not filed.

RECOMMENDATION:

When the personal representative does not file an accounting as required, the court shall take action as specified in PC 11050, et seq.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS02698

CASE NAME: ALFONSO ALONSO VARGAS

HEARING:

Hearing re: Inventory and appraisal

COUNSEL:

ALEJANDRO VARGAS	(PET)...	BANKS AND STRATHMAN
ALFONSO ALONSO VARGAS	(DEC)...	
ANA VARGAS	(OBJ)...	LEONARD PLOTKIN
JOHATHAN VARGAS	(LEONARD PLOTKIN)...LEONARD P
JENNIFER VARGAS	(LEONARD PLOTKIN)...LEONARD P

No file available for review

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS02743

CASE NAME: JOSE SAMUEL LARA SANCHEZ

HEARING:
FIRST and Final Account and Report.

COUNSEL:
BERTHA O. BELTRAN (PET)...SUZANNE M GRAVES
JOSE SAMUEL LARA SANCHEZ (DEC)...

GENERAL INFORMATION:

THIS CASE IS SET FOR HEARING ON 1st & Final Account

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. The estate consists only of the real property. How will the attorney fees be paid? Petition requests a reserve of \$250. How will that be paid? Please file verified supplement.
2. Two of the intestate heirs are minors. The petition asks that the property be titled in the name of the guardian. Please file copy of guardianship letters or verified supplement explaining the legal authority to distribute in this manner.
3. Attorney requesting statutory fee of \$9600. OK
4. Administrator waiving commission. OK

RECOMMENDATION:

Need to clear notes 1 & 2.

Once approved, set for hearing for Redlands court for filing of receipts and final discharge for 10-16-07.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS02776

CASE NAME: KATHERINE SEWELL MEYERS

HEARING:

Hearing re: Inventory and appraisal

COUNSEL:

SYLVIA B. GREENE (PET)...PRO/PER
KATHERINE SEWELL MEYERS (DEC)...

GENERAL INFORMATION:

Continued from 8-8-06 for petition to file security statements on I & A

THIS CASE IS SET FOR HEARING ON I & A

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Declaration filed indicating that petitioner lost the stock certificates. Attached some type of paper to show identification of shares.
2. If the asset is shares of stock and not a money market type of fund, then that asset cannot be self-appraised. Need to have the probate referee appraise the value of the shares.
3. If this is an account type of fund, then file copy of the account statement (like money market, investment account, etc.)

RECOMMENDATION:

Need clarification as to assets. If shares of stock, then I & A insufficient and needs referee. If account, then need statement.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS02818

CASE NAME: AUSTIN MCGREAL AKA AUSTIN JOSEPH MCGREAL, AUSTIN J

HEARING:
FIRST and Final Account and Report.

COUNSEL:
AUSTIN J. MCGREAL (PET)...PRO/PER
AUSTIN JOSEPH MCGREAL (DEC)...

No file available for review.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS02835

CASE NAME: HUGH THOMAS ELLIS

HEARING:
first and Final Account and Report.

COUNSEL:
RONNI ROBINSON (PET)...STEVEN D. KRAMER
HUGH THOMAS ELLIS (DEC)...

No file available for review

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS02874

CASE NAME: ROBER GREENE REVOCABLE TRUST

HEARING:

Petition for ORDER FOR INSTRUCTING TRUSTEE INTERPRET OF TRUST INST.

COUNSEL:

DENNIS J EASH. (PET)...VARNER SALESON & BRANDT LLP

ROBERT GREENE (DEC)...

JENNIFER A GREENE (RES)...MARY P. KULVINSKAS

GENERAL INFORMATION continued from 3-14-06 and 5-23-06. At the time of the 5-23 hearing the parties indicated a possible settlement of the issues. The court continued the matter to allow the parties an opportunity to work out a settlement. Nothing new filed.

Continued from 8-8-06. Parties still working on settlement. Amended Response filed on 9-25-06

THIS CASE IS SET FOR HEARING ON petition for instructions on interpretation of trust.

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. The petitioner is the successor trustee of the Greene Trust. The settlor created the trust in 4-24-92. Thereafter the settlor amended the trust 4 times. The petitioner request that the court interpret certain terms of the trust and amendments thereto.
2. Issue 1 is "Does the language of the third amendment of Section 5.3 subparagraph B effectively distribute the entire trust estate?" The amendment states "Article Five, Section 5.3 Subsection B, as amended on September 20 199, entitled as Disposition of Remaining Trust Estate delete: (6) Jeremy A. Greene." On what basis does petition contend that this statement distributes the remainder of the trust? File verified supplement.
3. The analysis is so unclear that it is difficult to determine what the petitioner's position is in relationship to the trust. I can only use my best guess. Paragraph 5.3 in the original trust deals with distribution of the trust assets after the settlor's death. The first amendment rewrites 5.3, but it still deals with the same thing, as far as distribution after the settlor's death. Section B gives the "balance of the entire trust

estate” to 6 beneficiaries. The second amendment deletes paragraph C of the first amendment and replaces paragraph C with a new distribution plan for certain assets. The third amendment simply deletes one of the beneficiaries listed in the second amendment to section C. I find nothing in any of these amendments that would bring one to the conclusion that anything was to be distributed prior to the death of the decedent/settlor. The settlor then created a 4th amendment that changes section C again. As the petitioner indicates that the statements concerning the Georgia property are not valid, in that the decedent and another person owned the Georgia property as joint tenants and property passed through the joint tenancy on the death of settlor there is no reason to be concerned with this property. (I am ignoring the fact that the creation of the trust may have severed the joint tenancy, as no one has raised that issue and it does not appear to concern any of the potential beneficiaries.) The only property that appears to be in question is the Thousand Oaks property. The 4th amendment says that the property is not to be distributed, but that Jennifer A. Greene is to have a conditional life estate.

4. The problem arises with the first amendment. That amendment gives certain assets to grandchildren and then the “balance of the entire trust” is distributed to 6 people. Thereafter the settlor proceeds to amend the trust multiple times. The last time settlor grants to Jennifer Greene a life estate in certain real property. The section dealing with distribution of the “balance” is section B, while the gift to Jennifer is section C. It is the position of the moving party that if the earlier section of the trust has disposed of all of the balance of the entire trust then there is nothing left upon which a life estate may be granted. “The words of an instrument are to receive an interpretation that will give every expression some effect, rather than one that will render any of the expressions inoperative. Preference is to be given to an interpretation of an instrument that will prevent intestacy or failure of a transfer, rather than one that will result in an intestacy or failure of a transfer.” Pr.C. § 21120. Here, the court must read the trust as a whole and not just parts of the document. Petitioner has provided no authority for the position that if a bequest is found earlier in the document that the bequest has priority over all other bequests stated later. A specific gift is a transfer of specifically identifiable property. A residuary gift is a transfer of property that remains after all specific and general gifts have been satisfied. Pr.C. §§ 21117(a) and (f). The gift to Jennifer Greene is a specific gift that transfers specifically identifiable property, to wit, a life estate in specifically identifiable real property. The gift of the “balance of the entire trust” cannot be reasonably interpreted as anything other than a residuary bequest, or at any rate, the petitioner has failed to offer any authority for it being anything other than a residuary bequest. Hence, the specific bequest takes precedence over the residuary bequest.
5. There are problems with the 4th amendment. First, it says the property is not to be distributed. So what happens to the property upon the death of Jennifer Greene or a failure of the condition? It cannot be interpreted to mean that the property will never be distributed, as this would violate the rule against perpetuities. Therefore the only reasonable interpretation would be that upon the death or failure of a condition the asset becomes a part of the residuary. Petitioner requests that the court find that the trustee should thereafter sell the property and distribute the proceeds among the residuary beneficiaries. It would seem that at this juncture the

best the court could do would be to order it distributed to the residuary beneficiaries. Whether they sell it or distribute by deed does not appear to be an issue necessary for determination at this juncture.

6. The second problem with the fourth amendment is the ambiguity to the term: "Jennifer A. Greene is to be allowed to continue to live there rent free as long as she maintains all taxes, utilities, etc." The petitioner would have the court find that the "etc." means that Jennifer should also pay for regular maintenance and repairs of the home, including landscape maintenance, interior and exterior pest control and maintenance of the property in a clean and habitable condition. Petitioner offers no authority for his definition of "etc." Petitioner offers no extrinsic evidence to support the position that this is what the settlor meant. The opposition sets forth the premise that the petitioner has for some time attempted to get her to move out of the house so that it can be sold and divided. It is objector's position that this is but one additional attempt to force breach of the duty imposed and thus force her to vacate so the house could be sold. Objector agrees that she has a duty to pay property taxes, insurance and regular maintenance and repair. (Opposition page 6, lines 8-11). Objector argues that the cosmetic requirements of landscaping, pest control and maintaining the property in a clean and habitable inside and out are merely an attempt to set the matter up for a finding that objector has breached her duty, so that she can be removed and the house sold. A review of the statement in the trust shows that the items mentioned are actual expenses of the house. There is no reference whatsoever to cosmetic requirements. If the court feels that the statement is ambiguous the court can allow an evidentiary hearing to determine the intent of the settlor.
7. Objector also attempts to raise her own petitions in the opposition to the instant motion. She demands an accounting, she demands discovery of tax returns and bank statements. This would not be appropriate in an opposition to a pending motion. Objector does have standing to bring such petitions, but should do so in a separate motion that has been properly noticed.
8. Objector requests that the court preclude the petitioner from use of trust funds to pay for the expenses associated with this petition. Objector offers no authority for this position.
9. Objector requests that the court award her attorney fees. She offers no authority for this court to award her attorney fees.
10. **Amended Response and Objections to Petition filed by Jennifer Greene. Argues settlor's intent to let her live on the property. Argues that Petition is a violation of the no contest clause and therefore Jennifer Greene should become sole beneficiary. Disputes interpretation that life estate should be terminated by her incapacity, since that requirement is not in the trust documents. Suggests questions regarding ultimate distribution can be resolved by way of Probate Code rather than as suggested in the Petition. She also objects to the Trust bearing the expense of the Petition.**

RECOMMENDATION:

Court should determine status of the settlement. If no settlement, matter should be set for an evidentiary hearing.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS02885

CASE NAME: JACK MOSES WINETSKY

HEARING:

Petition for Letters of Admin. W/ Full Authority under IAEA.

COUNSEL:

JOEL WINETSKY (PET)...AAEN LAW PARTNERS
JACK MOSES WINETSKY (DEC)...
RACHEL WINETSKY (OBJ)...MITCHELL I ROTH

GENERAL INFORMATION continued from 3-28-06. Continued from 5-30-06 to be heard in conjunction with competing petition. Court ordered RPR 02975 consolidated with this case with RPR 02885 as the master file.

Continued from 8-8-06. Court stated if no agreement reached, it will appoint Public Administrator. Counsel for petitioner gave notice to P.A., as required prior to appointment. Nothing else filed.

THIS CASE IS SET FOR HEARING ON Petition to administer filed by father, Joel Winetsky, with full I.A.E.A and \$1,800,000 bond.

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Petitioner requests bond of \$1,800,000. Amount appears sufficient.
2. Objections have now been filed and a competing petition has been filed.

Competing petition filed by Rachel Winetsky, mother

THIS CASE IS SET FOR HEARING ON Petition to administer, with full I.A.E.A. authority and \$100,000 bond.

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Petition appears procedurally complete.

2. Petitioner alleges that the assets only amount to \$100,000. If this is correct then the \$100,000 bond is adequate.

RECOMMENDATION:

Petitioners are of equal priority. Mother alleges that father is not qualified because he is not aware of the finances of the decedent. This is not a statutory ground for disqualification. Mother alleges that she is more qualified as she lived with the decedent and was involved in business with the decedent. This merely establishes potentially better first hand knowledge of the assets, but does not make her more qualified under the code. Where there are several persons of equal priority the court may appoint 1 or more of them. If they cannot agree then the court may appoint the public administrator or a disinterested person in the same or next lower class of priority as the persons who are unable to agree. Hence, if mother and father cannot agree on who should act the court can appoint them to act together. However, that probably won't work as it would require them to work together. The court may then appoint the public administrator (only after giving notice of intent to appoint them). Or in the alternative the court could invite one of the brothers of the decedent to file a petition for appointment.

If petition granted court will have to set future dates. Set hearing for filing of inventory and appraisal for 4-24-07. Set hearing for filing of status report and/or accounting for 12-18-07. Any accounting to be filed 30 days in advance.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS02892

CASE NAME: ILA G DAVIS

HEARING:
Hearing re: Inventory and appraisal

	COUNSEL:
BRENDA TEPICH	(PET)...ROBBINS & HOLDAWAY
ILA G DAVIS	(DEC)...

GENERAL INFORMATION:

THIS CASE IS SET FOR HEARING ON I & A

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Filed, but need copy of PFF statement per local rule.

RECOMMENDATION:
Need copy of bank statement.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS02896

CASE NAME: MICHAEL R HOWARD

HEARING:
Hearing re: Inventory and appraisal

COUNSEL:
ROMAN REX SEANO (PET)...PRO/PER
MICHAEL R HOWARD (DEC)...

GENERAL INFORMATION:

THIS CASE IS SET FOR HEARING ON I & A

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Not filed.

RECOMMENDATION:

When an inventory and appraisal is not filed as ordered, court may set a hearing in accord with Pr.C., §. §8505.

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS02968

CASE NAME: ***MASTER FILE GEORGE MICHAEL KESSLER****.

HEARING:

PETITION FOR LETTERS OF ADMINISTRATION W/WA W/FULL AUTHORITY
UNDER IAEA.

COUNSEL:

GLEN PORTER (PET)...BETTY AUTON-BECK

GEORGE MICHAEL KESSLER (DEC)...

HELGA KESSLER (TP)...

GENERAL INFORMATION

Continued from 7-18-06 and 8-8-06.

Contest has been filed by Helga Kessler, surviving spouse

THIS CASE IS SET FOR HEARING ON Petition for administration with will annexed with full authority under I.A.E.A. and no bond

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED;

1. Item 4(d) is not completed re bond/bond waiver. Alternatively, court may wish to require bond of \$400,000 or grant only limited authority. (Estimated value of estate is real property only with approx. value of \$400,000). Judge to decide
2. Petitioner alleges original will was erroneously lodged with the Los Angeles County Court and will be requested transferred upon the filing of this petition.
3. Need to file proof of holographic instrument.
4. Typewritten version of will is offered. However, parts are left blank. Need completed typewritten version of will. File verified supplement.
5. **Contest filed. No Summons/Proof of Service has yet been filed as to the Contest.**

RECOMMENDATION:

Need to set hearing on Contest. Court should wait for filing of Summons/Proof of Service and Response to Contest before beginning hearing. Continue matter to Redlands, 11-14-06.

Next matter is related.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS02968

CASE NAME: ***MASTER FILE GEORGE MICHAEL KESSLER****.

HEARING:
Spousal Property Petition hearing.

COUNSEL:
GLEN PORTER (PET)...BETTY AUTON-BECK
GEORGE MICHAEL KESSLER (DEC)...
HELGA KESSLER (TP)...

GENERAL INFORMATION
Continued from 8-8-06 (See case above)
Helga Kessler is the surviving spouse

THIS CASE IS SET FOR HEARING ON spousal property petition.

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Petitioner has submitted two documents alleged to be in the hand of the decedent. Please provide typed copies of these documents.
2. Petitioner alleges that decedent acquired property in 10-1955. Decedent put \$4,500 down and took out a \$12,500 loan on the remainder. Decedent and petitioner were married on 4-18-71. During the marriage the Deed of Trust was alleged to have been paid with community assets. Based on a Moore/Marsden calculation the petitioner alleges that she is entitled to a *pro tanto* portion of the separate property of the decedent. Petitioner has not provided a *pro tanto* calculation. Please provide the calculation.
3. Petitioner alleges that she would be entitled to 100% of the community property. This would be true if there is no will. However, a person has a right to will away their share of the community property. (See Ross and Moore, California Practice Guide: Probate § 4:19) It appears that the sister of the decedent may be alleging that the decedent willed away his share of the community property. The original of

the document alleged to be a will was incorrectly lodged with the court in Los Angeles. The court may need to make an order directing that it be delivered to this court. {Court should note that an attempt to comply with this note was made, but the proposed order was returned for procedural problems. Submit an appropriate order to obtain the LA will.}

RECOMMENDATION:

Before we can begin with this petition we need type written copies of the hand written documents, a Moore/Marsden calculation by the petitioner and a declaration concerning the petitioner's apparently position that the decedent could not will away his share of the community property.

We also need to know if the sister is going to challenge this petition. Court will have to determine if an order is necessary to get the original of the improperly lodged will out of Los Angeles.

Contest has been filed by Helga Kessler re Glen Porter's petition for probate of will.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS02978

CASE NAME: THOMAS H RIDLEY

HEARING:
Petition to determine succession to Real Property

	COUNSEL:
KAREN JOHNSON	(PET)...E LAWRENCE BROCK
THOMAS RIDLEY	(PET)...E LAWRENCE BROCK
JON RIDLEY	(PET)...E LAWRENCE BROCK
THOMAS H RIDLEY	(DEC)...

GENERAL INFORMATION
Continued from 10-8-06 to file Ps & As. Nothing new filed.

THIS CASE IS SET FOR HEARING ON Petition to determine succession to real property.

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. The petition indicates that the petitioners are taking the property as trustees of the Ridley Family Trust. The problem is that they must also petition in that capacity. They have not done that. They have petitioned in their individual names. File amendment to petition.

RECOMMENDATION:
Require amendment to petition.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS03037

CASE NAME: THE HORNBACK FAMILU TRUST

HEARING:

Petition for COPY OF TRUST, RECOVERY OF TRUST PROPERTY, ACTG,
BREACH OF TRUST, AND APPOINT SUB TRUSTEE AND RECEI

COUNSEL:

VONDA COURTNEY (PET)...FRANK J PRAINITO
BRENDA PRAINITO (PET)...FRANK J PRAINITO

GENERAL INFORMATION:

THIS CASE IS SET FOR HEARING ON Petition for Copy of Trust, Recovery of Property,
Accounting and Appointment of Substitute Trustee

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Petitioners are the children of Richard Brooks Hornback.
2. Need to file copy of trust. Without trust, cannot tell if petitioners have standing. [Petition alleges that current trustee will not provide copy.]
3. Need to file notice of hearing and proof of service.
4. Need response to petition.

RECOMMENDATION:

Need to clear notes 2-4 before can set for evidentiary hearing.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS03039

CASE NAME: REX L LAMB

HEARING:
PETITION FOR LETTERS OF ADMINISTRATION W/WA W/FULL AUTHORITY
UNDER IAEA.

COUNSEL:
SIDNEY W JONES (PET)...SIDNEY W JONES
REX J LAMB (DEC)...

GENERAL INFORMATION:

THIS CASE IS SET FOR HEARING ON Petition for Letters of Administration, with full authority (Ancillary)

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Court approved ex parte a request by petitioner to be the administrator in order to facilitate sale of real property. Court appointed him Special Administrator on 8-24-06.
2. Beneficiary waives bond.

RECOMMENDATION:

RFA subject to objection. . If approved, set hearing for Redlands Probate Court for filing of Inventory & Appraisal for 4-24-07. Set hearing for filing of accounting for 12-18-07.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS03040

CASE NAME: THOMAS J FORNEY IRREVOCABLE TRUST

HEARING:

Petition for APP FOR DETERMINATION TO COMPEL A TRUSTEE TO ACCT
FOR TRUST

COUNSEL:

THOMAS J FORNEY (PET)...JAMES B CHURCH
THOMAS J FORNEY (DEC)...

GENERAL INFORMATION:

THIS CASE IS SET FOR HEARING ON Safe Harbor Petition relating to Trust

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. The trust contains a "no contest" clause: "If any person shall seek to set aside this instrument or to contest the validity of any part of it, then I disinherit that person and his or her spouse and descendants, and all of them shall be deemed to be deceased for all purposes of this instrument."
2. A more detailed no contest provision is contained in the Forney Family Survivor's Trust.
3. The First Amendment to the Forney Survivor's Trust was specifically written to address Petitioner, Thomas J. Forney. The amendment indicates that the settlor intentionally provided for the Thomas J. Forney as was done, because it was in Thomas J. Forney's best interests due to his past criminal activities and actions. There is a list of 10 actions which might be considered to be "contests". It appears that every time there was an amendment, the settlor included a no contest clause.
4. Petitioner would like to file a Petition to Compel a Trustee to Account. The petition states that he does not seek to change the distribution provision or attack any portion of the trust document.
5. A no contest clause shall be strictly construed. PC 21304.

6. All of the pertinent trust documents were executed prior to January 1, 2001, and so PC 21305 subsection (a) does not apply.
7. Under PC 21305(b)(12), a petition to compel an accounting is not considered a contest. However, this particular provision only applies to instruments of a decedent dying on or after January 1, 2003 and to documents that become irrevocable on or after January 1, 2003. File verified supplement regarding date of death and irrevocable date.
8. If PC 21305(b)(12) is not applicable in this case, please file Points & Authorities to support the proposition that seeking an accounting does not violate the no contest clause.
9. No response has been received yet.

RECOMMENDATION:

Need further supplement and/or Ps&As.

Rancho Cucamonga District
CIVCAL4 Rancho District
PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE COMMISSIONER JOHN A CRAWLEY

DATE: 10/17/06 TIME: 10:30 DEPT: R17P

CASE #: RPRRS03041

CASE NAME: HAZEL L POWELL

HEARING:

Petition for Letters of Admin. W/ Full Authority under IAEA.

COUNSEL:

JOHN L POWELL	(PET)...	WILLIAM M NASSAR & ASSOCIATES
HAZEL M POWELL	(DEC)...	

GENERAL INFORMATION:

THIS CASE IS SET FOR HEARING ON Petition for Probate of Will, with full authority

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Need to file proof of due publication.
2. Will waives bond.

RECOMMENDATION:

RFA subject to 1. . If approved, set hearing for Redlands Probate Court for filing of Inventory & Appraisal for 4-24-07. Set hearing for filing of accounting for 12-18-07.